

9369

I N   A S S E M B L Y

(PREFILED)

January 6, 2010

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Introduced by M. of A. GABRYSZAK, COLTON, ROBINSON -- Multi-Sponsored by  
-- M. of A. LIFTON -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to environmental quality review

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Legislative findings. 1. The legislature hereby finds and  
2     declares that proposed actions may have adverse environmental impacts  
3     upon surrounding communities and that such impacts may be inconsistent  
4     with smart growth initiatives and other regional planning initiatives  
5     undertaken in these areas and may affect the long-term environmental and  
6     economic sustainability of New York.  
7     2. The legislature further finds and declares that it shall be the  
8     policy of the state of New York that the regional impacts of proposed  
9     actions shall be considered at the initial stages of the environmental  
10    review process.  
11    S 2. Subdivision 4 of section 8-0109 of the environmental conservation  
12    law, as amended by chapter 219 of the laws of 1990, the fourth undesig-  
13    nated paragraph as amended by chapter 238 of the laws of 1991, and the  
14    fifth undesignated paragraph as amended by chapter 641 of the laws of  
15    2005, is amended to read as follows:  
16    4. (A) As early as possible in the formulation of a proposal for an  
17    action, the responsible agency shall make an initial determination  
18    whether an environmental impact statement need be prepared for the  
19    action. When an action is to be carried out or approved by two or more  
20    agencies, such determination shall be made as early as possible after  
21    the designation of the lead agency.  
22    (B) IN MAKING SUCH INITIAL DETERMINATION, THE RESPONSIBLE AGENCY  
23    AND/OR APPLICANT SHALL CONSIDER WHETHER SUCH ACTION MAY HAVE A SIGNIF-  
24    ICANT EFFECT ON THE ENVIRONMENT THAT WOULD ADVERSELY IMPACT THE HEALTH,  
25    SAFETY, AND PUBLIC WELFARE OF AN ADJOINING MUNICIPALITY WITHOUT JURIS-  
26    DICTION OVER THE ACTION; IF THE ACTION MAY CAUSE OR INCREASE SUCH

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 ADVERSE ENVIRONMENTAL IMPACTS, SUCH MUNICIPALITY SHALL, UPON REQUEST, BE  
2 DESIGNATED AS A CO-LEAD AGENCY FOR THE REVIEW OF THE ACTION.

3 (C) With respect to actions involving the issuance to an applicant of  
4 a permit or other entitlement, the agency shall notify the applicant in  
5 writing of its initial determination specifying therein the basis for  
6 such determination. Notice of the initial determination along with  
7 appropriate supporting findings on agency actions shall be kept on file  
8 in the main office of the agency for public inspection.

9 (D) If the agency determines that such statement is required, the  
10 agency or the applicant at its option shall prepare or cause to be  
11 prepared a draft environmental impact statement. If the applicant does  
12 not exercise the option to prepare such statement, the agency shall  
13 prepare it, cause it to be prepared, or terminate its review of the  
14 proposed action. Such statement shall describe the proposed action and  
15 reasonable alternatives to the action, and briefly discuss, on the basis  
16 of information then available, the remaining items required to be  
17 submitted by subdivision two of this section. The purpose of a draft  
18 environmental statement is to relate environmental considerations to the  
19 inception of the planning process, to inform the public and other public  
20 agencies as early as possible about proposed actions that may signif-  
21 icantly affect the quality of the environment, and to solicit comments  
22 which will assist the agency in the decision making process in determin-  
23 ing the environmental consequences of the proposed action. The draft  
24 statement should resemble in form and content the environmental impact  
25 statement to be prepared after comments have been received and consid-  
26 ered pursuant to subdivision two of this section; however, the length  
27 and detail of the draft environmental statement will necessarily reflect  
28 the preliminary nature of the proposal and the early stage at which it  
29 is prepared.

30 (E) For any action for which the agency determines that such statement  
31 is not required and which would take place in a special groundwater  
32 protection area, as defined in section 55-0107 of this chapter, the  
33 agency shall show how such action would or would not be consistent with  
34 the comprehensive management plan of the special groundwater protection  
35 program, as implemented by the commissioner pursuant to article fifty-  
36 five of this chapter.

37 (F) The draft statement shall be filed with the department or other  
38 designated agencies and shall be circulated to federal, state, regional  
39 and local agencies having an interest in the proposed action and to  
40 interested members of the public for comment, as may be prescribed by  
41 the commissioner pursuant to section 8-0113. In addition, unless imprac-  
42 ticable, the draft statement shall be posted on a publicly-available  
43 Internet website. The website posting of such draft statement may be  
44 discontinued when the environmental impact statement is posted pursuant  
45 to subdivision six of this section.

46 (G) THE INITIAL DETERMINATION WITH RESPECT TO THE SIGNIFICANT EFFECT  
47 ON THE ENVIRONMENT OF AN ADJOINING MUNICIPALITY WITHOUT JURISDICTION  
48 OVER THE PROPOSED ACTION SHALL BE REVIEWABLE PURSUANT TO ARTICLE SEVEN-  
49 TY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.

50 S 3. This act shall take effect immediately.